

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07cr122-1**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
BOBBY LEE MEDFORD.)	
_____)	

THIS MATTER is before the court on defendant's Motion for Appointment of Counsel made in open court. The court has considered the financial affidavit of defendant, which reflects gross income of between \$5,000.00 to \$6,000.00 per month, and liabilities of approximately \$3,000.00. Considering federal taxation of such gross income and other likely adjustments, and deducting fixed monthly expenses, it would appear that defendant has approximately \$750.00 in excess income. Considering such income and the lack of tangible assets, the court finds that defendant would be unable to retain counsel with the experience and expertise to handle this type of action. Where a person has income that is insufficient to provide for privately retained counsel, Volume VII of the *Guide to Judiciary Policies and Procedures*, provides in relevant part as follows:

If a person's net financial resources and income anticipated prior to trial are in excess of the amount needed to provide him and his dependents with the necessities of life . . . but are insufficient to pay fully for retained

counsel, the judicial officer should find the person eligible for the appointment of counsel under the Act and should direct him to pay the available excess funds to the Clerk of the Court at the time of such appointment or from time to time thereafter. Such funds shall be held subject to the provisions of subsection (f).

Guide to Judiciary Policies and Procedures, Vol. VII, § 2.05. Finding excess income of \$750, the court will grant the request for appointment of counsel, but direct payment by defendant of such funds to the Clerk of Court. Id., at § 2.22(E). Such payments must be made not later than the 15th of each month, made payable to the Clerk of the United States Court, and shall begin with January 2008 and continue until the entire amount of counsel's compensation is repaid by defendant. The court will reconsider such amount upon motion of either party showing a change of circumstances.

The court, therefore, appoints Stephen P. Lindsey, Esq., of the Buncombe County Bar and the Bar of this Court to represent defendant herein under a partial eligibility finding.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion for Appointment of Counsel (oral motion) is **GRANTED**, and defendant is directed to pay the sum of \$750 monthly into the Clerk of this Court, not later than the 15th of each month beginning with January 2008, and continuing thereafter until the entire amount is paid, and **STEPHEN P. LINDSEY** is appointed as counsel for defendant herein.

Signed: January 7, 2008

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

